IN THE HIGH COURT OF DELHI

Bail Application No.3137/2005

#	Sanjay Dhillon	.....	Petitioner
!	through:	Mr. Ramesh Gupta, Mr. Sumit Arora Mr. Ankur Singhal, Advocates	

VERSUS

$	State	.....	Respondent
^	through :	Mr. Ranjit Kapoor, Advocate	

Bail Application No.3201-06/2005

#	Krishana & Ors.	.....	Petitioners
!	through:	Mr. Ramesh Gupta, Mr. Sumit Arora Mr. Ankur Singhal, Advocates	

VERSUS

$	State	.....	Respondent
^	through :	Mr. Ranjit Kapoor, Advocate	

% DATE OF DECISION: 26.09.2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.** (ORAL)

FIR No. 134/2005 dated 17.11.2005
U/S: 498A/306/34 IPC
PS: Jaffarpur Kalan.

1. Rajesh was married to Sanjay Dhillon on 11.2.1997. Unfortunately, she committed suicide on 17.11.2005.

2. Sanjay Dhillon and his parents, brothers, sisters and

brother in law seek pre-arrest bail in aforenoted FIR.

3. Rajesh was in the house of her parents when she committed suicide. A suicide note was purportedly recovered from the house of her parents after she died. The suicide note is scribed in Devanagari script. Signatures of Rajesh are appended in English.

4. As per opinion of the handwriting expert, whereas writing on the suicide note has been opined to be that of Rajesh, signatures in English of Rajesh have been opined as not tallying with the admitted writing of Rajesh in English language.

5. In the suicide note, Rajesh has penned her thoughts as under:-

> "I do not want to live. Life has come to an end for me because of compulsions of some persons. I have tried my level best to find a home. But my in-laws which include my sisters-in-law, a husband of my sister-in-law namely Surender Kapur and my husband Sanjay have compelled me to embrace death. My world has ended. I went with hope to the women cell but even nothing happened there. I was compelled to abandon my child. In front of my eyes my world has collapsed. I have lost the will to live.
>
> Father please forgive me. Mother please forgive me. I just don't want to live."

6. It is urged by learned counsel for the petitioners that sine qua non for the applicability of Section 306 IPC is abetment in the commission of suicide. Referring to Section 107 IPC learned counsel urges that abetment is complete when one or more of 3 acts envisaged by Section 107 IPC are committed. Firstly, if the person is instigated or a person engages in any conspiracy for the

doing of a thing which results in commission of a offence and lastly when a person intentionally aids by an act or illegally omission the doing of an offence.

7. It is urged that assuming there is harassment and as a result of harassment the person harassed commits suicide, mere harassment by itself would not amount to an offence under Section 306 IPC.

8. Learned counsel for the State with reference to the language of the suicide note strongly opposes the grant of pre-arrest bail.

9. I need not note a catena of authorities on the point save and except a decision of the Supreme Court reported as 2002 (2) RCR Crl. 687 *Sanju Vs. State of Madhya Pradesh*. In paras 9 to 12 of the said decision, 3 judgments of the Supreme Court were noted and with reference to a suicide note, contents whereof as noted in para 14 of the judgment were as under:-

> "Suicide Note
> Dainik Bhaskar
> 581 South Civil Lines
> Jabalpur.
> Agent Name, Sengar New Agency
> Place, Goshalpur
> No. of copies, 409 Date
> Name of the person who prepared label
> Gosalpur Sengar has threatened to report under Dowry demand and threatened to involve family members due to this I am writing in my full senses that Sanjay Sangar is responsible for my death. Sanjay Sangar also Mukraj commander Loota Tha Sanjay Ki.
>
> Sengar New Agency
> Gosalpur

I was threatened therefore I am dying
Sangar Gosalpur
My name Chander Bhushan Singh Gouram
Chander Bhushan Singh Goutam
Babloo Gotuam
In my senses
Sengar responsible for my death.
My moti
Darling my moti. You look after my Chukho. My darling Moti Neelam Sengar @ Chander Bhushan Singh Goutam Gandhigram Budhagar.

Sengar is responsible for my death
Sanjay Sengar is responsible for my death
Sanjay Sengar is responsible for my death
Chander Bhushan Singh Goutam Gandhigram Budhagar."

It was concluded in para 15 as under:-

"A plain reading of the suicide note would clearly show that the deceased was in great stress and depressed. One plausible reason could be that the deceased was without any work or avocation and at the same time indulged in drinking as revealed from the statement of the wife – Smt. Neelam Sengar. He was a frustrated man. Reading of the suicide note will clearly suggest that such a note is not a handy work of a man with sound mind and sense, Smt. Neelam Sengar, wife of the deceased made a statement under Section 161 Cr.P.C. before the Investigation Officer. She stated that the deceased always indulged in drinking wine and was not doing any work. She also stated that on 26th July, 1998 her husband came to them in an inebriated condition and was abusing her and other members of the family. The prosecution story, if believed, shows that the quarrel between the deceased and the appellant had taken place on 25th July, 1998 and if the deceased came back to the house again in 26th July, 1998, it cannot be said that the suicide by the deceased was the direct result of the quarrel that had taken place on 25th July, 1998. Viewed from the aforesaid circumstances independently, we are clearly of the view that the ingredients of 'abetment' are totally absent in the instant case for an offence under Section 306 IPC. It is in the statement of the wife that the deceased always remained in a drunkened condition. It is a common knowledge that excessive drinking leads one to debauchery. It clearly appeared, therefore, that the

deceased was a victim of his own conduct unconnected with the quarrel that had ensued on 25th July, 1998 where the appellant is stated to have used abusive language. Taking the totality of materials on record and facts and circumstances of the case into consideration, it will lead to irresistible conclusion that it is the deceased and he alone, and done else, is responsible for his death."

10. 3 earlier decisions which were noted in paras 9 to 12 are as under:-

> "9. In ***Swamy Prahaladdas v. State of M.P. & Anr., 1995 Supp. (3) SCC 438***, the appellant was charged for an offence under Section 306 IPC on the ground that the appellant during the quarrel is said to have remarked the deceased '*to go and die*'. This Court was of the view that mere words uttered by the accused to the deceased 'to go and die' were not eve *prima facie* enough to instigate the deceased to commit suicide.
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> 10. In ***Mahendra Singh v. State of M.P., 1995 Supp. (3) SCC 731***, the appellant was charged for an offence under Section 306 IPC basically based upon the dying declaration of the deceased, which reads as under:
>
> > "My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning."
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> 11. This court, considering the defintion of 'abetment' under Section 107 IPC found that the charge and conviction of the appellant for an offence under Section 306 is not sutainable merely on the allegation of harassment to the deceased. This Court further held that neither of the ingredients of the abetment are attracted on the statement of the deceased.
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> 12. In ***Ramesh Kumar v. State of Chattisgarh, (2001) 9 SCC 618: 2001 (4) RCR (Crl.) 537 (SC)***, this Court while considering the charge framed and

the conviction for an offence under Section 306 IPC on the basis of dying declaration recorded by an Executive Magistrate, in which she had stated taht5 previously there had been quarrel between the deceased and her husband and on the day of occurrence she had a quarrel with her husband who had said that she could go whereever she wanted to go and that thereafter she had poured kerosene on herself and had set fire. Acquitting the accused this Court said:

> "A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences, were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged for abetting the offences of suicide should be found guilty."

11. Thus, case is made out to grant benefit of pre-arrest bail to the petitioners for the reason the suicide note does not establish abetment. It merely establishes harassment.

12. Petition stands disposed of directing that in the event of being arrested by the IO, petitioners would be released on bail on their furnishing a personal bond in sum of Rs. 15,000/- with one surety each in the like amount to the satisfaction of the IO.

13. Needless to state, petitioners would join investigation as and when required by the IO.

14. Dasti.

September 26, 2007 **PRADEEP NANDRAJOG, J.**

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